

Internal Revenue Service  
District Director

Department of the Treasury

Post Office Box 1680, GPO  
Brooklyn, NY 11202

Date: JUN 02 1998

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification  
Numl

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] in [REDACTED].

The purposes for which the corporation was formed are as follows:

To conduct activities which are exclusively charitable, scientific and educational within the meaning of section 501(c)(3) of the Internal Revenue Code, as the same may be amended from time to time, for the purpose of providing relief to the poor, distressed and underprivileged, and lessening the burdens of government for the promotion of the public good through programs that provide training and education and programs which facilitate participant's employability.

In furtherance, but not in limitation of the foregoing charitable, scientific and educational purposes the Corporations shall: a) Help [REDACTED] become functional in mainstream America  
b) Provide help and assistance to all members  
c) Educate people about ways to grow thereby empowering them to take responsibility for and exercise option in the creation of a better quality life.  
d) Conduct workshops in the prevention of disease  
e) Use [REDACTED] culture as an educational source  
f) act as a service organization

In your letter dated January 13, 1998, you stated that it is the organization's intent to provide death, sickness, and accident benefits to members of the organization. In the events of sudden death the organization will provide help to the deceased's family by sending the body to [REDACTED]. Because the majority of the members of the organization do not have health insurance, in case of sickness and necessary hospitalization, the organization will contribute a sum of four hundred dollars to help cover the expenses.

The organization's enrollment agreement requires members to pay a ten dollars membership fee every week. The enrollment agreement also provided information that [REDACTED] is an abbreviation for: [REDACTED]

In the January 13, 1998 letter, the organization advised that it planned to acquire a building for the following:

- 1) [REDACTED]
- 2) A day care center for children
- 3) An english and african language teaching center
- 4) Entertainment center for the Community (marriage, meetings and annual extravaganzas)

In addition to the above, the organization indicated in its response to an Internal Revenue Service request for information dated January 14, 1997 that it also planned to renovate and rent out space as a designated retail sales area.

The organization will sponsor popular African artists and performers in [REDACTED] and throughout the United States. Profits will come not only from concerts themselves but also from all the vending that will go on under after the organization's supervision and control before, during and the concerts.

In its January 13, 1998 letter, the organization stated that the profits, if any, will benefit the organization.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt." (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.



Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Revenue Ruling 81-158, 1981-1 C.B. 331 denied exemption to an organization that had as its primary activity the providing of lump sum payments to its members upon retirement or to the beneficiaries upon death. It was essentially providing direct economic benefit to members. It was determined that the organization operated for a private rather than a public purpose.

Revenue Ruling 75-199, 1975-1 C.B. 160 denied exemption to an organization that restricted its membership to individuals of good moral character and health belonging to a particular ethnic group and provided sick and death benefits to members. It was operated for private purposes rather than public purposes.

Similar to the organizations described in Revenue Rulings 81-158 and 75-199, your organization is operated primarily to provide a private benefit to members rather than to serve a public purpose.

Regulations 1.501(c)(3)-1(e)(1) state that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose.

The promotion by [REDACTED] of concerts by popular African artists for profit and for revenues from concessions is an activity normally considered as a trade or business. This activity does not meet Regulations 1.501(c)(3)-1(e)(1) since it is not furtherance of an exempt purpose.

Although there some charitable and educational purposes in your organization's activities we hold that you are not operated exclusively for purposes stated in Section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.


Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

*Ellen Murphy*  
District Director

  
  
  
Enclosure: Publication 892